

DOCKET NO. 3797.1-8

PATENT

## REMARKS

All previously pending claims were rejected under 35 U.S.C. §102(e) as being anticipated by Shimizu et al. Although the rejection is riddled with errors due at least in part to misinterpretation of Shimizu et al. and its misapplication to the claims, Applicant has chosen not to address these errors. He instead submits that Shimizu et al. does not qualify as prior art under Section 102(e) and that no *prima facie* rejection has been made. By making this choice, applicant is not admitting the accuracy of the Examiner's remarks or reasoning or acquiescing in any way to the reasoning underlying the rejection.

Applicant conceived of his invention prior to the critical date of February 9, 1989, and worked diligently in reducing his invention to practice between February 9, 1989 and June 16, 1989, the priority date for the claims presently in this invention. In support of these contentions, the applicant and inventor, Peter R. Fenner, submits the accompanying Declaration of Peter R. Fenner Under 37 C.F.R. § 1.131, which evidences his conception of the invention prior to the critical date and his diligence in reducing it to practice.

Applicant has cancelled claim 19 and amended claims 20-22, but is not doing so in response to the rejection. The rejection is legally insufficient. Claim 20 is amended solely to put it in independent form. Claims 21 and 22 are amended to make them depend from claim 20 instead of claim 19, and are not being amended in response to a rejection.

The application is now in condition for allowance. Such action is respectfully requested. Please telephone the undersigned representative should he be of any assistance.

The Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this Amendment to Deposit Account No. 13-4900 of Munsch Hardt Kopf & Harr, P.C.

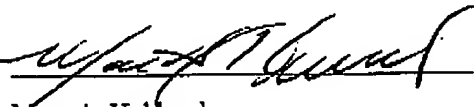
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Respectfully submitted,

Date:

4 November 2003  
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